



# House of Representatives

General Assembly

**File No. 649**

January Session, 2007

Substitute House Bill No. 7269

*House of Representatives, April 30, 2007*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING CRIMINAL HISTORY BACKGROUND CHECKS, CHILD PORNOGRAPHY, REPEATED FALSE ALARMS AND THE DESTRUCTION OF SEIZED FIREWORKS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-11 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) The bureau in the Division of State Police within the Department  
4 of Public Safety known as the State Police Bureau of Identification shall  
5 be maintained for the purposes (1) of providing an authentic record of  
6 each person sixteen years of age or over who is charged with the  
7 commission of any crime involving moral turpitude, (2) of providing  
8 definite information relative to the identity of each person so arrested,  
9 (3) of providing a record of the final judgment of the court resulting  
10 from such arrest, unless such record has been erased pursuant to  
11 section 54-142a, and (4) for maintaining a central repository of  
12 complete criminal history record disposition information. The  
13 Commissioner of Public Safety is directed to maintain the State Police

14 Bureau of Identification, which bureau shall receive, classify and file in  
15 an orderly manner all fingerprints, pictures and descriptions,  
16 including previous criminal records as far as known of all persons so  
17 arrested, and shall classify and file in a like manner all identification  
18 material and records received from the government of the United  
19 States and from the various state governments and subdivisions  
20 thereof, and shall cooperate with such governmental units in the  
21 exchange of information relative to criminals. The State Police Bureau  
22 of Identification shall accept fingerprints of applicants for admission to  
23 the bar of the state and, to the extent permitted by federal law, shall  
24 exchange state, multistate and federal criminal history records with the  
25 State Bar Examining Committee for purposes of investigation of the  
26 qualifications of any applicant for admission as an attorney under  
27 section 51-80. The record of all arrests reported to the bureau after  
28 March 16, 1976, shall contain information of any disposition within  
29 ninety days after the disposition has occurred.

30 (b) Any cost incurred by the State Police Bureau of Identification in  
31 conducting any name search and fingerprinting of applicants for  
32 admission to the bar of the state shall be paid from fees collected by the  
33 State Bar Examining Committee.

34 (c) The Commissioner of Public Safety shall charge the following  
35 fees for the service indicated: (1) Name search, eighteen dollars; (2)  
36 fingerprint search, twenty-five dollars; (3) personal record search,  
37 twenty-five dollars; (4) letters of good conduct search, twenty-five  
38 dollars; (5) bar association search, twenty-five dollars; (6)  
39 fingerprinting, five dollars; (7) criminal history record information  
40 search, twenty-five dollars. Except as provided in subsection (b) of this  
41 section, the provisions of this subsection shall not apply to any federal,  
42 state or municipal agency.

43 (d) The Commissioner of Public Safety may adopt regulations, in  
44 accordance with the provisions of chapter 54, necessary to implement  
45 the provisions of the National Child Protection Act of 1993, the Violent  
46 Crime Control and Law Enforcement Act of 1994, the Volunteers for

47 Children Act of 1998, and the National Crime Prevention and Privacy  
48 Compact as provided in section 29-164f to provide for national  
49 criminal history records checks to determine an employee's or  
50 volunteer's suitability and fitness to care for the safety and well-being  
51 of children, the elderly and individuals with disabilities.

52       Sec. 2. (NEW) (*Effective October 1, 2007*) Notwithstanding section 54-  
53 86a of the general statutes, in any criminal proceeding, any property or  
54 material that constitutes child pornography shall remain in the care,  
55 custody and control of the state, and a court shall deny any request by  
56 the defendant to copy, photograph, duplicate or otherwise reproduce  
57 any property or material that constitutes child pornography so long as  
58 the attorney for the state makes the property or material reasonably  
59 available to the defendant. Such property or material shall be deemed  
60 to be reasonably available to the defendant if the attorney for the state  
61 provides the defendant, the defendant's attorney or any individual the  
62 defendant may seek to qualify to furnish expert testimony at trial,  
63 ample opportunity for inspection, viewing, and examination of the  
64 property or material at a state facility. For the purposes of this section,  
65 "child pornography" shall have the same meaning as in section 53a-193  
66 of the general statutes.

67       Sec. 3. (NEW) (*Effective October 1, 2007*) (a) As used in this section:

68       (1) "Alarm system" means an assembly of equipment and devices  
69 arranged to signal the presence of a hazard such as unauthorized  
70 intrusion into a premises, an attempted robbery or a fire or smoke  
71 condition at a premises requiring urgent attention and to which the  
72 Division of State Police is expected to respond, including, but not  
73 limited to: Automatic holdup alarm systems, burglary alarms system,  
74 holdup alarm systems, manual holdup alarm systems, audible alarm  
75 systems and fire alarm systems. "Alarm system" does not mean a  
76 system that monitors temperature or is designed solely for notification  
77 of medical emergencies.

78       (2) "False alarm" means the activation of any alarm system including  
79 circumstances occurring off the protected property and within the

80 control of either the subscriber, his alarm business or his answering  
81 service to which the Division of State Police responds when caused by  
82 an individual motivated solely by criminal, malicious or mischievous  
83 intent and not caused by fire, a criminal act, emergency, or an act of  
84 nature such as an earthquake, tornado, hurricane or storm.

85 (3) "Subscriber" means an individual who buys, leases or otherwise  
86 acquires an alarm system and thereafter installs it or has it installed,  
87 including an individual who has control of the premises in which an  
88 operable alarm system exists.

89 (b) The subscriber of an alarm system shall be fined for each  
90 emergency police response to a false alarm, except that such fine shall  
91 be automatically waived for the first three false alarm responses in a  
92 calendar year. State, federal and municipal buildings or properties  
93 shall be exempt from such fine. The subscriber of an alarm system shall  
94 be fined for each emergency police response to a false alarm in a  
95 calendar year not more than: (1) Twenty-five dollars for a fourth  
96 offense, (2) fifty dollars for a fifth offense, (3) seventy-five dollars for a  
97 sixth offense, and (4) one hundred dollars for the seventh and each  
98 subsequent offense within a calendar year. Such fine shall be used for  
99 the administrative costs of administering this section, and for training  
100 and educational materials of the state police. If the subscriber is not the  
101 owner of the property in which the alarm system is located, the state  
102 police trooper shall give the property owner notice of the occurrence of  
103 the second alarm generated by the alarm system of the property.

104 (c) Any subscriber who has received notification from the state  
105 police informing such subscriber that a fine is being imposed for a false  
106 alarm may appeal the fine not later than seven days after the receipt of  
107 notification by filing an appeal with the Division of State Police. The  
108 Division of State Police shall review the appeal and make a  
109 determination as to whether or not the circumstances surrounding the  
110 false alarms justify a waiver of the fine. The Division of State Police  
111 shall notify the subscriber, in writing, of its final decision.

112 (d) All fines imposed pursuant to this section shall be payable to the

113 Division of State Police and shall be due not later than thirty days after  
114 the date of notification, or in the case of an appeal, not later than thirty  
115 days after the date of the decision on the appeal. A subscriber who fails  
116 to pay the fine within the designated time period shall be fined not  
117 more than two thousand dollars or imprisoned not more than one  
118 year, or both.

119 Sec. 4. Section 29-362 of the general statutes is repealed and the  
120 following is substituted in lieu thereof (*Effective October 1, 2007*):

121 The State Fire Marshal or a local fire marshal shall seize, take, store,  
122 remove or cause to be removed, at the expense of the owner, all stocks  
123 of fireworks or combustibles offered or exposed for sale, stored, held  
124 or kept in violation of sections 29-356 to 29-366, inclusive. When any  
125 fireworks have been seized, the superior court having jurisdiction,  
126 [within forty-eight hours after such seizure,] shall expeditiously cause  
127 to be left at the place where such fireworks were seized, if such place is  
128 a dwelling house, store, shop or other building, and also to be left with  
129 or at the usual place of abode of the person named therein as the  
130 owner or keeper of such fireworks, a summons notifying him or her  
131 and all others whom it may concern to appear before such court, at a  
132 place and time named in such notice, which time shall be not less than  
133 six nor more than twelve days after the posting and service thereof,  
134 then and there to show cause, if any, why such fireworks should not be  
135 adjudged a nuisance. Such summons shall describe such articles with  
136 reasonable certainty, and state when and where the same were seized.  
137 If any person named in such summons or any person claiming any  
138 interest in the same appears, he or she shall be made a party defendant  
139 in such case. The informing officer or the complainants may appear  
140 and prosecute such complaint and, if the court finds the allegations of  
141 such complaint to be true and that such fireworks or any of them have  
142 been kept in violation of any provision of sections 29-356 to 29-366,  
143 inclusive, judgment shall be rendered that such articles are a nuisance,  
144 and execution shall issue that the same be destroyed together with the  
145 crates, boxes or vessels containing the same. The court shall not require  
146 storage of the fireworks pending final disposition of the case and may

147 order the fireworks to be destroyed upon their being inventoried,  
148 photographed and described in a sworn affidavit. Such inventory,  
149 photograph, description and sworn affidavit shall be sufficient  
150 evidence for the purposes of identification of the seized items at any  
151 subsequent court proceeding.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2007</i>	29-11
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	29-362

***Statement of Legislative Commissioners:***

In subdivision (1) of subsection (a) in section 3, quotation marks were removed for proper form, and subsection (b) of section 3 was rewritten for clarity.

***PS***            *Joint Favorable Subst. C/R*

JUD

***JUD***            *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Public Safety, Dept.; Judicial Dept.	GF - Revenue Gain	Potential	Potential
Public Safety, Dept.	GF - Savings	Minimal	Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

**Section 1** of the bill requires the Commissioner of Public Safety to adopt various regulations, and is not anticipated to result in a fiscal impact.

**Section 2** limits the type of access defendants in criminal proceedings can have to child pornography material, and is not anticipated to result in a fiscal impact.

**Section 3** allows the Department of Public Safety (DPS) to charge subscribers of alarm systems for an emergency police response to a false alarm (state, municipal, and federal buildings are exempt from fines). The subscriber is not assessed a fine for the first three false alarms, but is assessed \$25 for a fourth offense, \$50 for a fifth, \$75 for a sixth, and \$100 for the seventh, and each subsequent offense. In calendar year 2003 there were over 4,000 incidents with at least 4 false alarms at the same location. It is anticipated that this provision would result in a revenue gain to the state of approximately \$100,000.

All fines assessed to subscribers shall be due within 30 days after notification, appeal, or decision on the appeal. Any subscriber failing to pay within the designated amount of time will be fined up to \$2,000

or imprisoned not more than one year, or both. Any revenue from criminal fines imposed under the bill or marginal cost for incarceration and/or probation supervision in the community as a result of the bill would be minimal.

**Section 4** allows seized fireworks to be destroyed once they have been inventoried, photographed, and described in a sworn affidavit. It is anticipated that DPS could incur a minimal savings associated with maintaining storage space to hold seized fireworks during the duration of court proceedings.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. Potential revenues would continue into the future, subject to the rate of violations.



**OLR Bill Analysis****sHB 7269*****AN ACT CONCERNING CRIMINAL HISTORY BACKGROUND CHECKS, CHILD PORNOGRAPHY, REPEATED FALSE ALARMS AND THE DESTRUCTION OF SEIZED FIREWORKS.*****SUMMARY:**

This bill makes several unrelated changes. The bill:

1. limits the type of access defendants in criminal proceedings can have to child pornography material in the state's custody;
2. allows the public safety commissioner to adopt regulations to implement the criminal history record check provisions of one state and three federal laws;
3. prohibits courts from ordering that illegal fireworks be held pending final disposition of a case involving such fireworks and instead allows the court to order them destroyed after they are inventoried and photographed; and
4. establishes fines for repeated false alarms that result in a State Police response, ranging from \$25 for the fourth offense to \$100 for the seventh and subsequent offenses. It exempts state, municipal, and federal buildings from such fines.

EFFECTIVE DATE: October 1, 2007

**ACCESS TO CHILD PORNOGRAPHY**

The bill requires that, in any criminal proceedings, any property or material constituting child pornography must remain in the state's custody and control. It requires the court to deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce such material. But the state's attorney must make the material

reasonably available to the defendant by providing the defendant or defendant's attorney or anyone the defendant seeks to qualify as an expert witness ample opportunity to inspect, view, or examine the material at a state facility.

Under the bill, child pornography means any visual depiction of sexually explicit conduct involving a person under age 16.

### **PUBLIC SAFETY REGULATIONS**

This bill allows the public safety commissioner to adopt regulations to implement provisions of one state and three federal laws to provide for national criminal history record checks to determine an employee's or volunteer's suitability and fitness to care for the safety and well-being of children, the elderly, and people with disabilities.

The federal laws are the 1993 National Child Protection Act, 1994 Violent Crime Control and Law Enforcement Act, and 1998 Volunteers for Children Act. The state law is the National Crime Prevention and Privacy Compact.

### **FALSE ALARMS**

The bill imposes fines on alarm system subscribers for emergency police response to a false alarm. Under the bill, a "subscriber" is anyone who buys, leases, or otherwise acquires an alarm system and installs it or has it installed. This includes anyone who controls the premises where the system is located. If the subscriber is not the owner of the property on which the alarm system is located, the police officer must give the property owner notice of the second false alarm.

The bill requires that the fines be waived for the first three false alarms in a calendar year. After that, the fines are as follows: fourth alarm, \$25; fifth alarm, \$50; sixth alarm, \$75; seventh and subsequent alarms, \$100. The bill gives subscribers notified of fines seven days to appeal to the State Police, which must review the appeal to determine if the circumstances justify waiving the fines and notify the subscriber of its decision in writing.

Fines are payable to the State Police and due within 30 days after the notification date or, in cases of appeal, 30 days after the date of the decision. The penalty for failing to pay by the deadline is a fine of up to \$2,000, imprisonment for up to one year, or both.

The State Police must use the fines for the administrative costs of administering the false alarm program and for state police training and educational material.

### **Definitions**

**Alarm System.** The bill defines “alarm system” as an assembly of equipment and devices arranged to signal the presence of a hazard such as unauthorized entry, an attempted robbery, or fire or smoke requiring urgent attention and to which the State Police is expected to respond. It includes holdup, burglar, audible, and fire alarms. It does not mean a system that monitors temperature or is designed solely for medical emergency notification.

**False Alarm.** A false alarm means activation of any alarm system (1) caused by someone motivated solely by criminal, malicious, or mischievous intent and not by a fire, criminal act, emergency, or an act of nature such as an earthquake, tornado, hurricane, or storm and (2) to which the State Police respond.

### **FIREWORKS**

Under current law, when a fire marshal seizes illegal fireworks, the Superior Court must, within 48 hours, issue a summons for the owner to show cause why the fireworks should not be judged a nuisance and destroyed. The bill instead requires the court to issue the summons expeditiously.

It also prohibits a court from requiring the seized fireworks to be stored pending final disposition of a case. It allows the court to order the fireworks destroyed after they are inventoried, photographed, and described in a sworn affidavit and makes the affidavit sufficient evidence for purposes of identifying the seized fireworks in any subsequent court proceeding.

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference

Yea 23 Nay 0 (03/06/2007)

Judiciary Committee

Joint Favorable

Yea 39 Nay 0 (04/13/2007)